

Town of

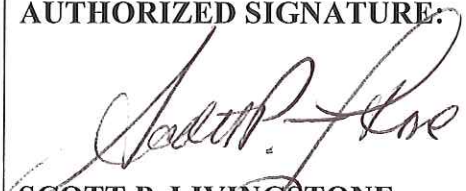


AMHERST Massachusetts

Amherst Police Department
111 Main Street
Amherst, Massachusetts
01002

Scott P. Livingstone
Chief of Police
Business (413) 259-3000
Chief (413) 259-3014
Records (413) 259-3016
Fax (413) 259-2408
police@amherstma.gov

DEPARTMENT DIRECTIVE

	NUMBER: 04
SUBJECT: DOMESTIC DISPUTES	AUTHORIZED SIGNATURE:  SCOTT P. LIVINGSTONE, CHIEF OF POLICE
New _____ Amends <u>X</u> _____ Rescinds _____ Review _____ Directive #04	Date of Issue: October 14, 2014 Effective Date: October 14, 2014 Subsequent Reviews: <u>EVERY TWO YEARS</u>

PURPOSE: This General Order includes updates to policy #04 DOMESTIC DISPUTES. It was found that revisions were needed.

The Administrative Division will place this policy in all Departmental Policy and Procedure Manuals.

Related Policies:
#60, Legal Process
#55, Booking
84, Domestic Violence Involving Officers

DOMESTIC DISPUTES

POLICY STATEMENT

Among the most difficult and sensitive calls for police assistance are those involving domestic violence. Although domestic violence calls are usually responses to a home, domestic violence can occur at any location and in any setting. When responding to a domestic disturbance, officers must be both alert and impartial, and must be concerned with the needs of victims where domestic violence is apparent or alleged. Police are well aware that situations, which appear minor at first glance, can mask a much more serious condition.

Appropriate and effective police response to domestic violence calls is the best mechanism for enhancing victim safety. It is also the means by which police departments can minimize departmental liability. It is, therefore, imperative that police officers receive appropriate training in the handling of domestic violence complaints and that departments follow the statutory obligations for action, and implement the guidelines outlined here.

POLICY PURPOSE

The purpose of this policy is to establish guidelines for our response to domestic violence calls. The primary focus shall be on victim safety, followed closely by offender accountability; accordingly, a proactive, pro-arrest approach in responding to domestic violence is a priority. Officers shall be expected to do the following:

- i. Establish arrest and prosecution as a preferred means of police response to domestic violence;
- ii. Enhance the safety of victims, their children, and anyone else living in the home;
- iii. Take appropriate action for any violation of permanent, temporary, or emergency orders of protection;
- iv. Promote the safety of law enforcement personnel responding to incidents of domestic violence;
- v. Provide victims or witnesses of domestic violence with support and assistance through cooperative efforts with community stakeholders in order to prevent further abuse and harassment. (Community stakeholders are individuals and entities in the community who work to foster effective intervention in and prevention of domestic violence. Entities include, but are not limited to, law enforcement agencies, prosecutors, parole, probation, community based domestic violence and sexual assault programs, social service agencies,

- adult and child protective services, clergy, educators, government agencies, animal welfare organizations, businesses and employers.); and
- vi. Complete thorough investigations and effect arrest of the dominant aggressor upon establishment of probable cause.

PROCEDURES

I. M.G.L. c. 209A: ABUSE PREVENTION LAW

A. Definitions

1. **Abuse:** For the purposes of this policy, the term "abuse" is defined by M.G.L. c. 209A, § 1, as the occurrence of one or more of the following acts between family or household members:
- Attempting to cause or causing physical harm;
 - Placing another in fear of imminent serious physical harm; or
 - Causing another to engage involuntarily in sexual relations by force, threat or duress.

2. **Family or household members:** For the purposes of this policy, the term "family or household member" shall include any of the following:

- Persons who are or were married to one another;
- Persons who are or were residing together in the same household;
- Persons who are or were related by blood or marriage;
- Persons who have a child in common regardless of whether they have ever married or lived together; or
- Persons who are or have been in a substantive dating or engagement relationship. This includes relationships involving an individual or individuals who identify as gay, lesbian, bisexual or transgender.

3. **Licenses:** For the purposes of this policy, the term "license", as defined in M.G.L. c.140, §§122, 122B, 129B, and 131, shall include all of the following:

- Class A license to carry firearms;
- Class B license to carry firearms;
- Class C firearms identification card;
- Class D firearms identification card;
- License to possess a machine gun;
- License to sell firearms;
- License to sell ammunition; or
- License to perform as a gunsmith.

4. **Firearms:** For the purposes of this policy, the term "firearm" shall not be limited to its definition in M.G.L. c.140, §121, but rather shall include any of the following:

- Firearms;
- Rifles;

- c. Shotguns;
- d. Machine guns;
- e. Ammunition;
- f. High capacity feeding devices; or
- g. Antiques.

B. Civil Liability

According to M.G.L. c. 209A, § 6: "No law officer shall be held liable in any civil action regarding personal injury or injury to property brought by any party to a domestic violence incident for an arrest based on probable cause when such officer acted reasonably and in good faith and in compliance with this chapter and the statewide policy as established by the Secretary of Public Safety." The provisions of M.G.L. c. 209A impose specific responsibilities upon the police in regard to a domestic abuse situation. All officers are expected to be thoroughly familiar with the contents of that statute (as amended and construed by case law) and to act with appropriate discretion and competence in carrying out its provisions.

II. RESPONDING TO THE SCENE

A. Dispatch Response

The likelihood of injury associated with domestic violence situations requires that officers immediately proceed to the place of the dispute whenever possible, two officers should be dispatched to the scene.

1. Communication personnel should do the following:

- a. Assign a priority response to all domestic violence calls, whether or not the assailant is known to be on the premises, including those calls that involve or appear to involve a police officer of any department;
- b. Immediately notify a supervisor of any domestic violence call;
- c. Preserve documentation of the facts and circumstances of each call, including 911 tapes, for use in potential administrative and criminal investigations;
- d. Maintain current contact information of local domestic violence victim advocacy organizations for responding officers to provide to victims;
- e. Attempt to elicit any and all information from the caller that may help the responding and investigating officers assess the situation, including the following:
 - i. Immediate safety of the caller, the victim, and others at the scene;
 - ii. Nature of the incident (verbal or physical), nature of injuries, and whether violence is ongoing;
 - iii. The type of weapons that are involved, or present, if applicable;
 - iv. Hazards to responders, if any, including animals;
 - v. Whether the caller or alleged assailant is under the influence of alcohol or drugs, or if there are mental health issues;
 - vi. Caller's and alleged assailant's description;

- vii. Presence or absence of the alleged assailant, and direction and mode of travel, if applicable;
- viii. Other people involved or witnesses at the scene, including children;
- ix. Alleged assailant's criminal history (B.O.P. check);
- x. Number of times the department has been called to this scene because of this suspect;
- xi. Existence of a protection order currently on file against the suspect or caller (check B.O.P.);
- xii. Outstanding warrants against the caller or alleged assailant if any exist (check CJIS and Warrant Management System);
- xiii. Caller's and alleged assailant's date of birth or social security number; and
- xiv. Record of firearms identification cards and/or licenses to carry having been issued to resident(s);
- f. Keep the caller on the telephone if the caller is a victim or witness to a domestic violence incident in progress in order to relay ongoing information provided by the caller to the responding officers and remain aware of victim's safety;
- g. Inform the caller of an approximate time of the officers' arrival;
- h. Make the safety of domestic violence victims a primary concern. Address threats of violence, whether immediate or remote, by working with the victim to focus on ways to enhance safety, such as waiting for officers at another location or leaving the location if the suspect returns;
- i. Keep in mind that the caller could be the victim or assailant; and
- j. Do not cancel the original call for service if a subsequent request to cancel the original call is received. Advise the responding officers of the second call and instruct them to continue to respond, investigate, and assess the situation to ensure that all parties are safe.

B. Police Response

Police officers should keep in mind that the same standard for probable cause applies to domestic violence offenses as for any other crime. See, Section IV, Arrest Guidelines.

Upon arrival, responding officers should approach the scene with a high degree of caution. Upon approach, officers should make observations of the scene, and listen for sounds or evidence of a disturbance. Observations should be documented in either the written arrest or incident report, whichever was applicable. See Section IX, Reporting Requirements.

1. Entering a Private Premises: When investigating a report of domestic violence, officers should be thorough and observe the following guidelines:

- a. Officers may enter private premises without a warrant in the following circumstances:
 - i. At the request of someone in lawful control of the premises;
 - ii. Where there is imminent danger of violence that could result in death or serious physical injury;
 - iii. When a police officer has probable cause to believe a felony has occurred and is in fresh pursuit of the fleeing felon; or
 - iv. Where a breach of the peace has been committed in an officer's presence and it is an ongoing breach of peace at the time of entry. Officers should be aware that the recent

trend in federal court decisions is to view with microscope entries into homes for minor offenses. Writing a clear and concise report will ensure that the entry will be upheld.

- v. "Private premises" shall include but not be limited to, a house, an apartment, a condominium, a hotel room, a mobile home, a dormitory room or a house trailer.
- vi. Officers shall remain on the scene where the abuse occurred or was in danger of occurring as long as the officers have reason to believe that at least one of the parties involved would be in immediate physical danger without the presence of an officer.
- vii. Officers should always consider the requirements of the Fourth Amendment when considering entering any premise.

2. Officers Demeanor: The responding officers should maintain a professional and calm attitude upon initial contact.

- a. The officers should state their reason for being present.
- b. Do not neglect to include children when explaining officers' presence, particularly if an arrest is being made. Tell the children that what happened prior to the officers' arrival is not their fault. If a child called 911, tell him/her that he/she did the right thing and that the officers are there to help the family.
- c. If the family does not speak English, when possible, DO NOT use the children as interpreters. This could prove dangerous to the child and adult victim. Officers can either request a bilingual officer from another local police department or refer to the Station Officer Resource Binder for a local interpreter services.
- d. Officers should strive to be considerate and attentive toward all parties and their concerns. Officers shall maintain a professional and objective demeanor throughout their investigation.
- e. Upon entering, officers shall prevent the physical movement of the parties as much as possible and control their access to any potential weapons.
- f. Persons who are under the influence of drugs or alcohol, or who suffer from mental illness, might pose a safety risk to themselves or others at the scene. Special precautions may need to be taken in these circumstances.

3. Officers' Roles At The Scene: Whenever any officer has reason to believe that a family or household member has been abused, or is in danger of being abused, such officer shall use all reasonable means to prevent further abuse. The officer shall take but not be limited to, the following action. The responding officers must take immediate control of the situation and should separate the parties to prevent any further violent action. The parties should be interviewed independently. However, if there are two officers present at the scene, they should, if practical, remain within view of each other (the Domestic Violence Interview Position) to enhance officer safety and to avoid any subsequent action. Throughout the investigation the officers should allow each party to present his or her story individually, avoiding any unnecessary interruptions by the other party. Separating the parties also allows each to relate matters to an officer without being overheard, influenced or intimidated by the other party. Officers should determine whether interpretative language services are needed and should seek out such services where available.

- a. Remain on the scene. As long as the officer has reason to believe that at least one of the parties involved would be in immediate physical danger without the presence of an officer, that officer should remain at the scene where the abuse occurred or was (or is) in danger of occurring for a reasonable period of time to prevent abuse. If the suspect has fled the scene, a reasonable period is the amount of time necessary:
 - i. To assess that the suspect has left the scene, and
 - ii. To carry out the responsibilities outlined within the policy
- b. Medical treatment. Assist in obtaining medical treatment for injuries resulting from an assault, which may include driving the victim to the emergency room of the nearest hospital, after gaining supervisory approval, or arranging for appropriate transportation to a health care facility.
- c. Getting to a safe place. Assist the victim and dependent children in locating and getting to a safe place, including but not limited to a designated meeting place for entry into emergency shelter or a family member's or friend's residence (or a similar place of safety). The officer shall consider the victim's preference in this regard and what is reasonable under all the circumstances.
- d. Notice of rights. Give abuse victims immediate and adequate notice of rights by handing to them and reading a form stating their rights (see attached). Where the person's native language is not English, the statement shall be provided in the person's native language whenever possible.
- e. Activating the Emergency Judicial Response System (EJR). Assist the victim by activating the Emergency Judicial Response System when a judge is not available through court. This should be done even when the alleged abuser has been arrested.
- f. Confidentiality of Abuse Prevention Order provisions: a plaintiff's residential address and workplace address shall appear on the court order and be accessible to the defendant unless the plaintiff specifically requests that this information be withheld from the order. See M.G.L. c. 209A, § 8. Police officers helping to issue emergency abuse prevention orders must be cognizant of victims' confidentiality rights and requests.

NOTE: If a victim is unable to appear in court because of severe hardship due to the victim's physical condition, officers can seek an order by contacting the court. A representative may appear in court on behalf of the victim to seek an emergency or temporary order. Officers shall advise these victims that a representative may appear on their behalf.

- g. Arrest when appropriate. Decisions to arrest will be based on whether or not probable cause and the authority to arrest exist, not on whether or not the victim agrees to the action, or to testify at a future date. See Section IV, Arrest Guidelines.
- h. Bail. Inform the victim that the abuser will be eligible for bail and may be promptly released. However, as mandated by G.L. 276 Section 42A, 57 and 58, bail clerks are prohibited from the out of court release of a defendant arrested for any criminal act constituting domestic violence until six hours after the time of arrest. See Section 3.2.B, Information from the scene. Prior to the release from the police station, the station officer should make a reasonable attempt to notify the victim of the release. For detainees that have been set to the House of Correction, upon notification from their personnel that a

detainee has been release, the station officer should make reasonable attempt to notify the victim.

- i. Referrals. Provide information, including phone numbers, about local resources such as the community based domestic violence and sexual assault advocacy programs for emergency shelter and counseling services and the District Attorney's Office Victim Witness Advocacy Program. (see Referrals in the Appendix). If the officer has been issued preprinted resource cards to distribute, those should be carried at all times. If those are not issued, the officer can write on the top of the Abused Person's Notice of Rights card the current local recourses for victims of domestic violence.
- j. Police Response-Instances involving serious injury. In cases of serious injury, the preferred method of transportation is via ambulance. Officers are authorized by M.G.L. c. 209A, § 6, to transport victims of domestic violence to the emergency room of the nearest hospital, or to arrange for appropriate transportation to a health care facility. Officers should receive approval from their supervisor prior to transporting a victim of domestic abuse in a cruiser, except in an emergency. If the victim is not seriously injured, or declines transportation, the victim may then seek transportation through his or her own means.

4. Investigation

Officers responding to domestic violence calls should ensure thorough investigations. Attached to this policy, and on the department Administrative Drive, are the Amherst Police Department Domestic Violence Check List and Strangulation Check List. These checklist can be beneficial to ensure that important investigative aspects are not neglected. When completed, this form shall be attached to the original report and submitted to records as per existing policy.

- a. Interviewing witnesses. Attempt to identify and interview the party who called the police, neighbors, and other potential witnesses. All parties present and involved should be documented in the incident report. It is not unusual for some witnesses to be unsupportive of the victim. Do not tell the suspect who called the police. See Section IX, Reporting Requirements.
- b. Information from the scene: Attempt to obtain the following information at the scene. If that is not possible, obtain the information during the follow-up investigation.
 - i. Determine the relationships of all parties, including children, at the scene. If children are not immediately observed, ask if there are children present in the household. If children are present, record their names and dates of birth.
 - ii. Check on the children to ascertain whether or not they have sustained injury.
 - iii. Some children believe that police officers are not allies. If children are present, one officer should talk to the children to inform them of the officers' intentions to keep the family safe, that the officers are there to help, and that the violence is not the children's fault.
 - iv. If a child is to be interviewed as a witness to the incident, the officer should consider the child's physical, emotional or psychological ability to give a statement; the child's age and ability to understand questions and formulate responses; and the likelihood the child's safety will be compromised by disclosing what he/she witnessed.
 - v. Obtain at least two phone numbers where the victim can be reached. Include a cell phone number, a daytime phone number, or the number of a close relative or friend. Include

- these numbers in the incident report so the bail clerk or court personnel may inform the victim of the abuser's release on bail. Inform the victim that if she or he intends to leave the residence, and wishes to be informed of the abuser's release, he or she must inform the police department of a number where he or she may be reached, or where a message may be left safely.
- vi. Obtain information about the suspect's ownership of, presence of, or access to firearms, and their location.
 - g. Officers should gather information regarding suspect's past behavior/dangerousness. This information should be documented in incident report and provided to the Bail Commissioner in determination of bail and to the Prosecutor for use at arraignment. The Bail Commissioner shall have access to all applicable police reports, pending and prior criminal offender record information, to assist them in determining bail. See Attachment 4, M.G.L. c. 276, §58A. Therefore, gather information regarding the suspect's: Criminal history, including history of abusing current victim, other victims, non-fatal strangulations, forced sex, extreme possessiveness or jealousy, possession and/or use or threat of weapons, abuse or threat of abuse of pets, attempts or threats to kill, attempts or threats to commit suicide. Also include current or past vacate, restraining, no-contact or other protective orders, including those held against the suspect by someone other than this victim. After ascertaining past reported and non-reported criminal history, seek appropriate criminal action for current and prior incidents. Refer victims to appropriate resources listed in Attachment 3. Officers can also distribute the department issued Sexual and Relationship Violence Recourse Card, copy attached, which list resources available to survivors.
 - h. Information Documentation. Properly document important information, i.e., spontaneous utterances (direct quotes) by the victim, the suspect, children, and other witnesses. Officers are reminded of the importance to also document WHEN statements were made to officers. If a victim later refuses or is otherwise unable to testify, only those statements made contemporaneous to the officers arrival and when made when trying to secure a volatile scene or determine the need for or summons medical assistance may officers later testify to. d. In collecting evidence of domestic abuse, officers are strongly encouraged to use photographs to document injuries sustained by the victim and the condition of the crime scene. Contemporaneous records of injuries and crime scene condition are critical to the prosecution of alleged abusers. When documenting the scene photographically, officers are reminded to take both close-up and full scene pictures. Follow-up photographs of injuries should be taken 2-3 days after the incident to document progression of injuries.
 - e. Collect physical evidence (including weapons used, even when simple household item) and document collection in the incident report.
 - f. In all cases of domestic violence that include physical abuse, the officer will request through the proper chain of command that copies of either the 911 call or business line call are made and that such items be placed into evidence per existing policy.

III. THE ROLE OF THE SUPERVISOR

A. Response

1. Supervisors will ensure that the provisions of M.G.L. c.209A, other related statutes, and these guidelines are adhered to.
2. Supervisors shall be responsible for monitoring any domestic violence calls dispatched to officers under their direct supervision.
3. Whenever possible, supervisors should respond to the scene for the purpose of providing additional safety and advice.
4. When unable to respond, supervisors will perform follow up to ensure department policy and procedures were followed.

B. Assurances For Practice

1. Supervisors will assure that dispatch logs are reviewed to ensure that an incident report has been filed for all incidents involving a domestic violence assault and battery, even in cases where no arrest was made. Calls, which are received as allegations of domestic violence or a domestic disturbance, will **not** be reclassified to a different call type because no probable cause to arrest existed. These incidents (generally a verbal argument) will be fully documented by the officer by writing a CAD narrative, including documenting all involved parties and the statements made by each.
2. A supervisor or his or her designee within the department who is specially trained to review domestic violence cases, in order to ensure that the provisions of M.G.L. c. 209A and these guidelines are met, will carefully review incident and arrest reports. If upon review of an incident report it is believed that probable cause exists, the supervisor will ensure that criminal charges are initiated according to the statute and these guidelines.
3. Whenever a department identifies a particular case as posing significant danger, that case will be discussed at roll call.

C. Referrals

1. Supervisors shall make the safety and protection of victims and other family members a priority, recognizing the important role they perform in supporting the safety of victims and other family members and enabling them to make informed decisions.
2. Every effort shall be made to provide law enforcement protection and other safety measures to a victim domestic violence. Such protection may include but not be limited to:
 - a. Drive-bys;
 - b. Welfare checks;
 - c. Arresting the abuser for violations of no-contact orders and any other offense committed;

- d. Transporting the victim to a safe place when necessary; or
 - e. Ensuring victim contact with trained domestic violence advocates for safety planning.
3. Make referrals of abuse cases to the Domestic Violence Officer for collaboration with the department assigned Domestic and Sexual Violence Advocate, employed by the Center for Women and Community. The Advocate has office space in the operations area of the police station. If the Domestic Violence Officer is otherwise not available, make the referral directly to the Domestic and Sexual Violence Advocate by leaving the CAD or report in their office.
 4. Supervisors will ensure that appropriate referrals are ascertained and provided to the victim.

D. Follow-Up Investigations

Regarding follow-up investigations, supervisors shall:

1. Determine whether a follow-up investigation is needed. For instance, if the report indicates a history of abuse, it is likely that additional criminal charges should be pursued.
2. If so indicated, the supervisor shall ensure that a follow-up investigation is conducted.
3. Upon review of the follow-up investigation, the supervisor will ensure that additional charges are initiated whenever appropriate.

IV. ARREST GUIDELINES

A. The Decision To Arrest

1. The safety of the victim, children and other family members shall be paramount in any decision to arrest.
2. As in other types of criminal investigations, uncorroborated statements by a victim can constitute probable cause that the crime occurred.
3. The decision to arrest must be based on whether probable cause exists that the crime occurred, not on whether the victim wishes to seek complaints or wishes to testify at a future date.
4. Substance Abuse / Mental Health Issues:
 - a. When assessing credibility in order to establish probable cause, officers should remember that a victim who is under the influence of drugs or alcohol, or who suffers from mental illness, is not an inherently unreliable witness.
 - b. An abuser who is under the influence of drugs or alcohol, or who suffers from certain mental illnesses, may pose a greater risk to the safety of the officer, the victim, children, bystanders, and him/herself.

5. Officers should also remember that it is not unusual for an abuser to display a calm demeanor following any domestic violence incident.

6. Officers should be mindful that the victim has just been traumatized and may appear agitated, confused, numb, anxious, tearful or afraid. The victim may tell officers that he/she is to blame for the incident and will try to take responsibility for the incident. It is important to determine the dominant aggressor. The dominant aggressor is not who struck first, but who has a pattern of domination and control. See Section IV/D, Dual arrests/dominant aggressor.

B. Arrest: Mandatory Or Preferred

An officer's authority or mandate to arrest is set forth in M.G.L. c. 209A, § 6(7).

1. In the interest of immediacy, and the statutory mandate to arrest, officers shall make a warrantless arrest of any person the officers witness or have probable cause to believe has violated an emergency, temporary or permanent vacate, refrain from abuse, stay away or no-contact order or judgment, a suspension and surrender order, or protection order issued by any jurisdiction.

2. When there are no refrain from abuse, vacate, stay-away or no-contact orders or judgments in effect, arrest shall be the preferred response whenever officers witness or have probable cause to believe that a person:

- a. Has committed a felony; or
- b. Has committed a misdemeanor involving abuse, as defined in M.G.L. c. 209A; or
- c. Has committed an assault and battery or permits another to commit an assault and battery upon an elder or a person with a disability in violation of M.G.L. c. 265, § 13K.
- d. In Chapter 260 of the Acts of 2014, signed into law on August 8, 2014 MGL c. 265 § 15D added the crime of strangulation or suffocation, with the penalty of not more than 5 years in states prison or in house of correction not more than 2 ½ years. There is an additional offense within MGL c. 265 § 15D of aggravated strangulation or suffocation, (causes serious bodily injury, defendant knows or has reason to know victim is pregnant, second or subsequent offense, or defendant knows victim has outstanding abuse prevention order)

C. If The Suspect Has Fled The Scene

When probable cause to arrest exists, and the suspect has fled the scene:

1. Officers shall direct the dispatcher to advise area patrols, including other jurisdictions where the suspect is believed to be going, in order for those patrols to attempt to locate and arrest the suspect.

2. One department's statement that probable cause exists to arrest shall be honored by another department. The second department shall immediately attempt to affect the arrest as requested by the investigating department. When the Amherst Police Department affects the arrest for another department, the arresting officers will document this custody via a brief written arrest report and the detainee will be booked in full per our policy #55, Booking. The narrative will note any unusual circumstances in the detention, as well as the name of the investigating

department and officer. The offense will be "Arrested on Warrant Initiated by Another Agency." The transfer of the custody of the detainee will be documented by the completion of the Transfer of Prisoner form (in duplicate, attached) which the arresting officer will complete in full, noting any medical, security or suicide concerns for the detainee. The releasing officer (if different from the arresting officer) will see that the completed Transfer of Prisoner form is provided to the investigating department. The investigating department will sign one copy of the form, and the releasing officer will cause this form to be placed into records with the arresting report, documenting the investigating departments receipt of this form.

3. Officers will attempt to make a warrantless arrest within a reasonable period of time. However, as soon as is practical, the investigating department shall seek an arrest warrant from the appropriate court, in cases involving abuse as defined under M.G.L. c. 209A.
4. When probable cause exists to believe a crime involving abuse occurred, it is not proper procedure to advise the victim to seek complaint applications on his or her own.

D. Dual Arrests/Dominant Aggressor

Dual arrests, like the issuance of mutual restraining orders, are strongly discouraged because they trivialize the seriousness of domestic abuse and increase the danger to victims.

1. Officers should attempt to identify the dominant aggressor, and take action based on that determination. In the majority of cases, an effective investigation will reveal the dominant aggressor.
2. Officers should be aware of the difference between offensive and self-defensive injuries. Self-defense of reasonable force may be used by any person in resisting or aiding another to resist an offense against the person. The use of force must be reasonable for that person given the nature of the threat and, if warranted under the circumstances, may include the use of weapons. If one of the persons acted entirely in self-defense, the situation should be treated as if there was a single offender.
3. If the officers determine that neither party acted in self-defense and that both parties have committed an act of domestic abuse, then the officers should determine who is the dominant aggressor and take action considering the totality of the circumstances including:
 - a. The relative severity of injuries and fear inflicted in this incident;
 - b. The relative use of force and intimidation in this incident;
 - c. Information available to the officers regarding prior incidents involving either party;
 - d. The likelihood of either party to commit domestic violence in the near future.
4. Any officer arresting both parties is required by law to submit a separate detailed, written report, in addition to an incident report, setting forth the grounds for dual arrest.
5. Officers investigating an incident of domestic violence shall not threaten, suggest, or otherwise indicate the arrest of all parties for the purpose of discouraging requests for law enforcement intervention by any party

E. Substantive Dating Relationships

1. Officers will gather information to determine whether or not a substantive dating relationship exists. Officers will examine the same factors which the courts review when making this determination:
 - The length of time of the relationship;
 - The type of relationship;
 - The frequency of interaction between the parties; and
 - If the relationship has been terminated by either person, the length of time that has elapsed since the termination of the relationship.
2. If the officer determines that a "substantive dating relationship" exists or did exist, then the officer shall take the proper action, including arrest when appropriate, regardless of whether the victim seeks a restraining order.
3. Even in cases where there is no substantive dating relationship, a crime, such as stalking or criminal harassment, may have been committed.

F. Arrest Of A Caretaker

1. In cases involving abuse of a child, an elder or a person with a disability, officers must address the issue of whether or not the victim can be left alone safely, if the abuser is arrested.
2. If the child, the elder or the person with a disability cannot be left alone, the appropriate protective agency must be contacted, in order to arrange for temporary care. When a caretaker is arrested and an agency is called for temporary care, the officer shall explain to the child, elder or person with disability what is happening and the reasons for calling a protective agency. See Section X/B, Mandatory Reporting.

G. Out-Of-State Orders Or Violations

1. A protective order issued in another jurisdiction (as defined in M.G.L. c. 209A, § 1) shall be given full faith and credit in the Commonwealth. A responding officer shall serve and enforce the terms and conditions of an out-of-state protective order as written by the issuing jurisdiction.
2. Officers shall make a warrantless arrest of any person the officer witnesses or has probable cause to believe has violated an emergency, temporary or permanent vacate, refrain from abuse, stay away, or no-contact order or judgment issued by another jurisdiction.
3. In assessing probable cause, an officer may presume the validity of the protection order issued by another jurisdiction when the officer has been provided with:
 - i. A copy of the order, by any source; and
 - ii. A statement by the victim that such order remains in effect.

4. An order of protection is presumed valid if it gives the names of the parties involved, contains the date the order was issued, has not expired, and specifies the terms and conditions set against the abuser, contains the name of the issuing court and is signed by the issuing authority.
5. Violations of out-of-state orders or Massachusetts orders violated in another state may be charged criminally as contempt of court (M.G.L. c. 220, §14), in the Commonwealth of Massachusetts.

H. Fingerprinting And Photographing Of Defendants

Whenever resources allow, officers shall take fingerprints and photographs of all criminal defendants in domestic violence cases. (See Policy #55, Booking)

V. SERVICE OF ORDERS

A. In-Hand Service

Service of orders shall be made in hand unless otherwise ordered by the court. Chapter 209A, § 7, requires that "the law enforcement agency shall promptly make its return of service to the court."

1. Orders shall be served promptly upon receipt. If service is initially unsuccessful, this department must continue to attempt service until it is completed. Service of orders will not be delayed in order to forward service by a specialized officer or unit. If an officer is unable to make service after numerous attempts, the officer should document in detail the service attempts on the "return of service" form and request the court to allow service by leaving a copy of the order at the last known address of the defendant.

2. Service of orders may compromise victim safety. Victim safety should be considered in the timing of the service of the order. Officers should encourage the victim to contact an advocate (either through the Amherst Domestic Violence Advocate, D.A.'s Office, SAFEPLAN or the local domestic violence program) in order to develop a safety plan around the service of the order.

B. Record Of Service And Return

1. The Amherst Police Department will keep a record of all receipts of and attempts at service of restraining and protection orders by starting a CAD. The CAD will include the RO #, defendant, plaintiff, addresses and outcome of service attempt. All returns of service, including service of Emergency Orders, must be sent to the court by completing the "Return of Service" section of the order and forwarding that to the court officer. Officers will adhere to Policy #60, Legal Process, when making service of 209A's or Protection Orders. This includes documenting the receipt of the 209A by starting a CAD as well as documenting all attempts of service, and the outcome, by starting a CAD.

2. When serving a defendant with a restraining order/protection order, officers will, to the extent practical, provide the defendant with information and resources regarding domestic violence, including a list of nearby certified batter's intervention program. To assist with this notification, the Northwestern District Attorney's Office has developed a brochure, "Understanding the Abuse Prevention Order and Getting Help." A copy of this brochure is attached to this policy and will be provided to defendants upon service.
3. Copies of all served orders will be kept on file in the station officer area, sorted by the plaintiff's last name. All expired orders will be removed from the file and shredded.
4. All protection orders issued under 209A will be entered into the IMC Records Management System, Restraining Order Module. This includes new orders, emergency orders, modification to existing orders and out of state protection orders. The responsibility for entry into IMC is as follows:
 - a. When an Emergency 209A is obtained with the assistance of an Amherst officer, the **assisting officer** is responsible to enter the information in the IMC system.
 - b. When a 209A Order received from the court by the court liaison officer, the **court liaison officer** is responsible to enter (or update) the information into the IMC system.
 - c. When a 209A is received from the court or any other justice agency via the fax, the **station officer** is responsible to enter (or update) the information into the IMC system.
 - d. Once the Protection Order/209A has been entered into a CAD and the "IMC Restraining Order" Module, it will be served, if applicable, and filed as per existing protocol.

C. Plaintiff Bringing Orders To The Department

When a plaintiff brings an order to the department for service, officers should ensure that the department's responsibilities under M.G.L. c. 209A and the guidelines outlined above are met.

D. Firearms

Upon service of the order, police shall immediately take possession of all firearms and licenses in the control, ownership, or possession of the defendant. The license-issuing authority shall be contacted and informed of the action taken and police reports regarding the incident forwarded to it. Such firearms and licenses shall not be returned until the Abuse Prevention Order has been completely vacated or the firearms provision has been modified by order of the court. M.G.L. c. 140, §§ 129B, 131

VI. PROPERTY

The relationship of the parties and their property interests complicate domestic violence situations.

A. Removing Or Destroying Property

When a person is accused of removing or attempting to remove property from the dwelling or is accused of damaging or destroying property, the officer should investigate to determine the civil or criminal consequences, and if criminal, take appropriate action (for example, malicious destruction of property).

B. Vacate Orders And Court Orders To Retrieve Belongings

1. Once a vacate, no contact, stay away or refrain from abuse order is issued, officers should not accompany a defendant to the property for any reason without specific judicial authorization.
2. The defendant in the vacate order is allowed to retrieve his or her belongings under the following conditions:
 - a. The defendant must have a court order allowing for the retrieval.
 - b. The police must accompany the defendant. Officers shall remain with the defendant throughout the process. Requests deemed unreasonable to fulfill i.e., defendant wanting to move an excessive amount property, will be referred to the shift commander who may deny the request and refer the defendant back to the issuing court.
 - c. The victim must have prior notice by the department, and must agree to the timing of the retrieval.
 - d. The defendant must not be allowed to use this as a means of harassing the victim.
 - e. The defendant may retrieve personal property including clothing, shoes, personal care items etc. If the defendant is attempting to collect any other items, including furniture or electronic equipment that is in dispute the defendant should be referred to issuing court or the Probate and Family Court for settlement of shared property.
3. When a court order exists allowing for a victim to return to the defendant's residence in order to retrieve his or her belongings, the police shall accompany the victim to ensure the order is executed, and that the victim is able to follow the order free from harassment or abuse by the defendant.

VII. ALLEGATIONS AGAINST LAW ENFORCEMENT PERSONNEL

Police departments must recognize that the law enforcement personnel, whether sworn or civilian, are not immune from committing domestic violence against their intimate partners or being victims of domestic violence. Although no person is exempt, whatever his or her occupation, from the consequences of his or her actions that result in a violation of M.G.L. c. 208, 209, 209A, 209C and/or Superior Court injunctions, the dynamics between the responding and accused officers have the potential for making on-scene decisions additionally difficult. This agencies response protocols for addressing domestic violence with any sworn officer are outlined in policy # 84, Domestic Violence Involving Officers.

VIII. CONFIDENTIALITY OF DOMESTIC VIOLENCE PROGRAM LOCATIONS

The location and street address of all domestic violence programs and/or shelters are absolutely confidential and shall not be required to be revealed in any criminal or civil proceeding. See M.G.L. c. 233, § 20L. For the purposes of this provision, a domestic violence program is defined as any refuge, shelter, office, safe home, institution, or center established for the purpose of offering assistance to victims of abuse through crisis intervention, medical, legal or support counseling. See M.G.L. c. 233, § 20K. If a report is made at a domestic violence program, the incident occurred at that program or an officer transported someone to a program, the officer shall not include this address in the incident report. Under no circumstances should a law enforcement officer release information to the public or otherwise regarding the location of a domestic violence program.

IX. OTHER POLICE CONSIDERATIONS

When responding to domestic violence incidents officers should be aware of and consider the additional layers of control and oppression that victims may experience, including, but not limited to the following:

- Immigration status;
- Language skills including English as a second language;
- Cultural identity;
- Physical limitations and disabilities; and
- Sexual orientation and gender identity.

These victims may have fear of police, and may present angrily or as abusers themselves. It is important to be aware of, and deter, any biases. Statewide resources for these, and other special populations, can be found in Appendix 3.

X. REPORTING REQUIRMENTS

A. Incident, Arrest and CAD Reports:

When officers respond to an incident of domestic violence, family violence or family argument and find that there has been no abuse as defined by MGL 209A (generally a verbal argument only), the incident will be coded as a Domestic and a detailed supplement CAD narrative, written by the primary responding patrol officer, will document the incident. In all incidents where there was abuse, as defined by 209A, a full written report (either arrest or incident) will be filed whether or not an arrest is made. In all instances of a violation of a restraining order, a full written report (either arrest or incident) will be filed whether or not an arrest is made. They will be made available to the victim at no cost, upon his or her request to the department. (Since the initial investigation should determine the existence of any history of abuse, that information must be included within the report.)

1. Prosecution and subsequent legal action can be greatly aided by documentation and description of physical injuries, photographs of the injuries, and/or noting the presence of children in household, and other information gained through the investigation.
2. Police departments shall ensure the confidentiality of domestic violence records including information regarding the identity of a victim or children and any medical information or statement by witnesses. Domestic Violence Records, like records of sexual assault, are not

public records and shall not be disseminated except authorized by law. Victims of domestic violence have a strong privacy interest in this type of information whether contained in the initial incident report or supplemental reports. With the exception of the complete report's release to the victim, reports should be reviewed and redacted accordingly in response to other requests.

3. Confidentiality of Incident, Arrest and CAD reports involving domestic abuse: All communication between police officers and the victims of abuse perpetrated by a family, household or by a person of which they have a substantial dating relationship, as defined by 209A shall not be public records and shall be maintained by the police department in a manner that shall assure their confidentiality. No reports or CADs of these offenses shall be released as public records. This includes the removal of all arrests for these defined abuse offenses and restraining order violations from the Public Arrest Log and the Daily Public Call Log, see MGL 41 § 97D. To ensure their protection from unlawful dissemination, calls and reports shall be coded appropriately. CAD calls will be coded as **Domestic** and incident and arrest reports will have the Domestic Violence tab selected on the front of the applicable report(s). However, these reports shall be accessible at all reasonable times, upon written request, to the victim, victim's attorney, others specifically authorized by the victim to obtain such information.
4. These reports are accessible to victim-witness advocates as defined in section 1 of chapter 258B, domestic violence victims' counselors as defined in section 20K of chapter 233, sexual assault counselors as defined in section 20J of chapter 233, if such access is necessary in the performance of their duties; and provided further, that all such reports shall be accessible at all reasonable times, upon written, telephonic, facsimile or electronic mail request to law enforcement officers, district attorneys or assistant district attorneys and all persons authorized to admit persons to bail pursuant to section 57 of chapter 276. Communications between police officers and victims of said offenses and abuse may also be shared with the forgoing named persons if such access is necessary in the performance of their duties.
5. The Domestic Violence Investigator has the ability to make referrals to the Northwestern District Attorney's High Risk Team. The High Risk Team is comprised of police officers, the Probation Department, Victim Witness Advocates and the Northwestern District Attorneys Office to discuss domestic violence offenders that pose a substantial threat of both lethality to the victim and to re-offend. This Team allows for a collaborative approach to best ensure the safety of the victims and survivors of domestic violence. In the absence of an assigned Domestic Violence Investigator, referrals may be made by the Court Liaison Officer or any investigating officer to the Court Liaison Officer. See attachment # 6

B. Mandatory Reporting

1. A report will be filed with the Department of Children and Families whenever the police officer has reasonable cause to believe that a child under the age of 18 has been abused or neglected, in accordance with M.G.L. c. 119, § 51A. During office hours, contact the local DCF office. After hours, call the hotline: 1-800-792-5200. Officers should file 51A child abuse reports against the offender abusing or neglecting the child. If an officer intends to file

a 51A child abuse report, he/she should tell the non-offending parent or caretaker and explain the filing process, including the fact that the report is being filed against the abuser, not the caretaker who is also a victim of abuse.

2. A report will be filed with the Disabled Persons Protection Commission whenever the officer has reasonable cause to believe that a caretaker has abused / neglected a disabled person, between the ages of 18 and 59, in accordance with M.G.L. c. 19C, § 10. Call the hotline: 1-800-426-9009. If an officer intends to file a report, he/she should tell the disabled person who is the subject of the abuse.
3. A report will be filed with the Executive Office of Elder Affairs whenever the officer has reasonable cause to believe that someone age 60 or older has been abused / neglected, in accordance with M.G.L. c. 19A, §§ 14-26. Call the 24-hour hotline: 1-800-922-2275. If an officer intends to file a report, he/she should tell the elder person who is the subject of the abuse

XI. FIREARMS

When a firearm or other weapon is present at the scene of a domestic violence situation, officers shall:

1. Seize the firearm or weapon as evidence of the crime, if the responding officers are informed that a firearm or weapon has been involved in the dispute.
2. If the firearm or weapon is not reported to have been involved in the dispute:
 - a) Request that the firearm or weapon be placed in their custody temporarily;
 - b) Search for and take custody of the firearms or weapon if a party who lawfully resides there requests that the officer do so. A consent search is allowed in areas to which the victim has access, including joint access with the suspect;
 - c) Take temporary custody of the firearm or weapon to alleviate the threat of serious violence.
3. Determine whether a firearm or weapon is lawfully possessed before returning the same.
4. If the officer determines that the firearm or weapon cannot be seized, the following actions can take place:
 - a) A judge can order the defendant to surrender guns and licenses; and
 - b) The chief who issued a license to carry may revoke or suspend such license.
5. In all domestic violence cases, the investigating department shall advise the licensing authority that the subject of the licenses is suspected of abuse.
6. Issuance of an Abuse Prevention Order
 - a) Abuse Prevention Orders-Upon issuance of any applicable order under M.G.L. c. 209A, police shall immediately take possession of all firearms and licenses in the control,

ownership or possession of the defendant. Such firearms and licenses may not be returned until the order has been completely vacated or the firearms provision modified by order of the court.

- b) Violations of Orders- In the interest of immediacy and the statutory mandate to arrest, officers shall make a warrantless arrest of any person the officer witnesses or has probable cause to believe has violated an order including a violation, which stems from the possession of firearms, weapons, or licenses.
- c) Seizure and Storage of Firearms-Every department within the Commonwealth shall honor another department's request for assistance in seizing firearm, weapons, or licenses, regardless of which department is named within the order. The department named within the order shall be responsible for the storage of the seized items or the delegation of storage to an authorized facility.
- d) Orders Against Law Enforcement Officers- In cases involving police officers that are defendants in Abuse Prevention Orders, the defendant shall immediately surrender all firearms, including departmental weapons and licenses, to the department serving the order.

7. Federal Firearms Provisions

Although officers cannot enforce the following Federal provisions, the chief should be notified whenever an officer identifies a case involving the following circumstances, because there may be Federal action that can be taken.

- a) Misdemeanors Involving Domestic Violence -Under 18 U.S.C. § 922(g)(9), it is unlawful for any person convicted of certain misdemeanor crimes involving domestic violence to ship, transport, possess, sell or otherwise dispose of, or receive firearms or ammunition.
- b) Federal law prohibits any person subject to a qualifying order of protection from possessing firearms and ammunition. See 18 U.S.C. § 922(g)(8).
- c) Federal Felon in Possession of a Firearm- Under 18 U.S.C. § 922(g)(1), "Felon in possession of a firearm," it is unlawful for any person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year to possess any gun or ammunition.
- d) Persons Named in Protective Orders- Under the Federal Crime Control and Law Enforcement Act of 1994, it is unlawful for an individual subject to a "permanent" restraining order involving "intimate partners" to receive, ship, transport, or possess guns (including handguns, rifles, and shotguns) or ammunition that traveled in interstate commerce

NOTE: Misdemeanors are excluded from consideration if they are punishable by a term of two years or less. Therefore, misdemeanors that are punishable by a term of imprisonment of more than two years fall within that provision.

Attachments:

- 1. Abused Persons Notice of Rights**
- 2. Massachusetts General Laws Commonly Associated with Domestic Violence Incidents**
- 3. Referrals and Resources**
- 4. Domestic Violence Investigative Checklist**
- 5. Strangulation Investigative Checklist**
- 6. Lethality/High Risk Referral Form**
- 7. 209 A Defendant Brochure of Responsibilities and Batterers Resources**

Attachment 1

Abused Persons Notice of Rights

Abused Person's Notice of Rights

Directions to Police Officer:

Give a victim of domestic violence immediate and adequate notice of his or her rights. The notice shall consist of handing said person a copy of the statement, which follows below, and reading the same to the victim. Where the victim's native language is not English; the statement shall then be provided in the victim's native language whenever possible.

"You have the right to appear at the Superior, Probate and Family District or Boston Municipal Court, if you reside within the appropriate jurisdiction, and file a complaint requesting any of the following applicable orders: (a) an order restraining your attacker from abusing you; (b) an order directing your attacker to leave your household, building or workplace; (c) an order awarding you custody of a minor child; (d) an order directing your attacker to pay support for you or any minor child in your custody, if the attacker has a legal obligation of support; and (e) an order directing your attacker to pay you for losses suffered as a result of abuse, including medical and moving expenses, loss of earnings or support, costs for restoring utilities and replacing locks, reasonable attorneys' fees and other out-of-pocket losses for injuries and property damage sustained."

"For an emergency on weekends, holidays, or week nights the police will refer you to a justice of the Superior, Probate and Family, District or Boston Municipal Court Departments."

"You have the right to go to the appropriate District Court or the Boston Municipal Court and seek a criminal complaint for threats, assault and battery, assault with a deadly weapon, assault with intent to kill or other related offenses."

"If you are in need of medical treatment, you have the right to request that an officer present drive you to the nearest hospital or otherwise assist you in obtaining medical treatment."

"If you believe that police protection is needed for your physical safety, you have the right to request that the officer present remain at the scene until you and your children can leave or until your safety is otherwise ensured. You may also request that the officer assist you in locating and taking you to a safe place, including but not limited to a designated meeting place for a shelter or a family member's or a friend's residence, or a similar place of safety."

"You may request a copy of the police incident report at no cost from the police department."

Attachment 2

Massachusetts General Laws Commonly Associated with Domestic Violence Cases

For a complete listing of Massachusetts' General Laws please see:

<http://www.mass.gov/legis/laws/mgl/>

click onto "Search the General Laws"

To see the text of the following statutes connect to the above website and click onto "Link to a specific chapter and section" and follow the instructions.

Bail question regarding "Dangerousness"	M.G.L. 276 sec. 58A
Violation of a Restraining Order	M.G.L. 209A Sec 6, 7
Stalking	M.G.L. 265 sec. 43
Criminal Harassment	M.G.L. 254 sec 43A
Assault and Battery	M.G.L. 265 sec 13A(a)
Aggravated Assault and Battery	M.G.L. 265 sec. 13A(b)
Assault and Battery/Dangerous Weapon	M.G.L. 265 sec. 15A(a)
Assault/Domestic	M.G.L 265 sec. 13M
Strangulation or Suffocation	M.G.L. 265 sec 15D
Aggravated Assault and Battery/Dangerous Weapon	M.G.L. 265 sec. 15A(b)
Threats	M.G.L. 272 sec. 2
Intimidation of a witness	M.G.L. 268 sec. 13B
Kidnapping	M.G.L. 265 sec. 26
Mayhem	M.G.L. 265 sec. 14
Malicious Destruction	M.G.L. 266 sec 127
Resisting Arrest	M.G.L. 268 sec 32B
Disorderly Conduct	M.G.L. 272 sec. 53
Disturbing the peace	M.G.L. 272 sec. 53

Attachment 3

Referrals and Resources

SAFE PASSAGE: Hampshire County's Domestic Violence Agency. Safe Passages offer support, shelter, counseling, and resources for survivors, children, and families affected by domestic violence. Located in Northampton. 24-hour Crisis Hotline: (413) 586-5066 Office: (413) 586-1125

CENTER FOR WOMEN AND COMMUNITY: (CWC): Hampshire County's Rape Crisis Center. (CWC): Hampshire County's Rape Crisis Center. Center for Women and Community's Rape Crisis Program also offers support and counseling for those affected by abusive relationships and domestic violence. We work closely with Safe Passage. Located in Amherst. 24-hour Crisis/support line: (413) 545-0800 (TTY) 413-577-0940

New England Learning Center for Women in Transition (N.E.L.C.W.I.T) Provides domestic violence and rape crisis services for Franklin County, including counseling, advocacy and referrals. Located in Greenfield. 24-hour Crisis Hotline: (413) 772-0806. NELCWIT also offers a Native American Sexual Violence Prevention and Survivors Service. Call 413-772-0871 for more information.

Womanshelter/Companeras: Domestic violence crisis/support line and bilingual services in English/Spanish. Located in Holyoke and serves the greater Holyoke area. Amherst residents are welcome to call. 24-hour crisis/support line: 1-877-536-1628

SAFELINK

877-785-2020 (TTY) 877-521-2601

Statewide listing of available DV shelter beds and referrals to programs across the state including multi-lingual agencies

Asian Task Force Against Domestic Violence

617-338-2355

Specializes in services to Asian communities

Gay Men's Domestic Violence Project

800-832-1901

Specializes in services to the Gay, Lesbian, and Transgender communities

The Network/La Red

617-742-4911

Specializes in services to the Gay, Lesbian, and Transgender communities

Attachment 3, continued

National Domestic Violence Hotline

800-799-7233

24/7 to talk confidentially with anyone experiencing domestic violence, seeking resources or information, or questioning unhealthy aspects of their relationship

RAINN: Rape, Abuse & Incest National Network

800-656-4073

nationwide partnership of more than 1,100 local rape treatment hotlines provides victims of sexual violence with free, confidential services around the clock

Safe Recovery

978-388-6600

Specializes in services for victims with co-occurring substance abuse and domestic violence concerns

Child Witness to Domestic Violence Project

617-534-4244

Specializes in services for children 0-8 years old who have been exposed to domestic violence

Llamanos Y Hablemos

800-223-5001

Sexual assault hotline for Spanish speaking individuals

Elizabeth Stone House

617-522-3659

Specializes in services for victims with co-occurring substance abuse, mental health and domestic violence concerns

Elder Abuse Hotline

800-922-2275

Disabled Persons Hotline

800-426-9009

Child at Risk Hotline

800-792-5200

#4

Amherst Police Department Domestic Violence Check List

CASE # _____

Dispatch

- ☐ _____ Document date and time of call
- ☐ _____ Document any information received by Dispatch regarding the call (including what they heard while taking call)
- ☐ _____ Record information on reporting party (who it is and what they said)

Victim

- ☐ _____ Describe the victim's location upon arrival and administer first aid if needed
- ☐ _____ Record any spontaneous statements made by the victim
- ☐ _____ Describe the victim's emotional condition/demeanor/physical condition
- ☐ _____ Document the victim's injuries in detail (bruising/bleeding/strangulation)
- ☐ _____ Make note of the victim's relationship to the suspect
- ☐ _____ Record any past history of abuse
- ☐ _____ Note any restraining orders, 209A violations, A&Bs, etc.. listed on suspect's BOP
- ☐ _____ Record any temporary address/telephone of victim (Make sure information is current)
- ☐ _____ Obtain written statement

Victim Rights

- ☐ _____ During on call hours, call DVIP advocate as soon as reasonably possible
- ☐ _____ Advise victim that DVIP advocate will call
- ☐ _____ Advise victim of access to APD civilian advocate and APD DV Detective
- ☐ _____ Give victim required written copy of victim's rights in relation to getting a 209A
- ☐ _____ Verbally advise victim of rights under 209A

Suspect

- ☐ _____ Describe the suspect's location upon arrival
- ☐ _____ Record any spontaneous statements made by the suspect
- ☐ _____ Describe the suspect's emotional state, physical condition, and/or injuries
- ☐ _____ Document evidence of substance abuse by suspect
- ☐ _____ Interview the suspect
- ☐ _____ Summarize actions to locate suspect if not on scene

Witness

- ☐ _____ Interview the reporting party and obtain written statement
- ☐ _____ Locate and interview the witness(es) and obtain written statement(s)
- ☐ _____ List names and ages of any children present (in the home)
- ☐ _____ Interview children and record statements if they heard or saw anything
- ☐ _____ File 51A (if applicable)

Evidence

- ☐ _____ Photograph and describe the crime scene
- ☐ _____ Document any/all items seized as evidence
- ☐ _____ Photograph the victim's and/or suspect's injuries
- ☐ _____ Obtain copy of dispatch tape

#5

STRANGULATION WORKSHEET

Submit this form with your Incident/Police Report

Suspect's Name:	_____
Victim's Name:	_____
Report Number:	_____
Officer's Name:	_____
Date:	_____

Ask every strangulation victim the following and check all applicable boxes:☐ Victim is unable to respond at this time

1. Were EMTs called to examine the victim (strongly recommend in all strangulation cases)?

☐ Yes☐ No

2. Did the suspect put his/her hands around the victim's neck?

☐ Yes☐ No

3. Did the suspect apply pressure to the victim's neck by some other method?

☐ Yes☐ No

If yes, check all applicable boxes and circle the corresponding choice.

☐ Hand right left both☐ Foot right left both☐ Forearm right left both☐ Knee right left both☐ Ligature (is item in evidence ☐ Yes ☐ No)

If ligature was used, describe what and how: _____

4. Did the victim experience physical pain?

☐ Yes☐ No

5. Was or is the victim having trouble breathing due to strangulation?

☐ Yes☐ No

6. Did the victim lose consciousness?

☐ Yes☐ No

7. Did the victim's vision fade or did the victim see stars during strangulation?

☐ Yes☐ No

8. Where did the strangulation occur (car, bedroom, kitchen, etc.)? _____

9. What position were the suspect and the victim in when strangulation occurred?

Describe: _____

10. How long did the strangulation occur? _____ minutes _____ seconds

☐ Victim unable to estimate ☐ Victim unable to remember/may have lost consciousness

11. Was the victim also smothered?

☐ Yes☐ No

12. Was the victim shaken during strangulation?

☐ Yes☐ No

13. Was the victim's head pounded against any stationary or immovable object?

☐ Yes☐ No

If yes, describe: _____

14. Have there been any prior incidents of strangulation?

☐ Yes☐ No

If yes, how many and approximately when? _____

Symptoms of Injury:

Breathing	Voice	Throat/Neck	Behavior	Other
<input type="checkbox"/> Difficulty Breathing <input type="checkbox"/> Hyperventilating <input type="checkbox"/> Unable to Breathe <input type="checkbox"/> Other: _____	<input type="checkbox"/> Raspy <input type="checkbox"/> Hoarse <input type="checkbox"/> Coughing <input type="checkbox"/> Difficulty Speaking <input type="checkbox"/> Unable to Speak	<input type="checkbox"/> Trouble Swallowing <input type="checkbox"/> Painful Swallowing <input type="checkbox"/> Neck Pain <input type="checkbox"/> Nauseous <input type="checkbox"/> Vomiting	<input type="checkbox"/> Agitated <input type="checkbox"/> Amnesia/Unable to Remember <input type="checkbox"/> Stressed <input type="checkbox"/> Hallucinating <input type="checkbox"/> Combative	<input type="checkbox"/> Dizzy <input type="checkbox"/> Headaches <input type="checkbox"/> Fainting <input type="checkbox"/> Urination <input type="checkbox"/> Defecation

Visible Signs of Injury: (Photographs should be taken of any and all visible injuries)

Face	Eyes/Eyelids	Nose	Ears	Mouth
<input type="checkbox"/> Red/Flushed <input type="checkbox"/> Petechiae <input type="checkbox"/> Scratch Marks	<input type="checkbox"/> Petechiae on eyeballs R L Both <input type="checkbox"/> Petechiae on eyelids R L Both <input type="checkbox"/> Blood-red eyeballs R L Both	<input type="checkbox"/> Bloody Nose <input type="checkbox"/> Broken Nose <input type="checkbox"/> Petechiae	<input type="checkbox"/> Petechiae R L Both <input type="checkbox"/> Bleeding from Ear Canals R L Both	<input type="checkbox"/> Bruises <input type="checkbox"/> Swollen Tongue <input type="checkbox"/> Swollen Lips <input type="checkbox"/> Cuts/Abrasions
Head	Neck	Under Chin	Shoulders	Chest
<input type="checkbox"/> Petechiae on Scalp <input type="checkbox"/> Pulled Hair <input type="checkbox"/> Bumps <input type="checkbox"/> Skull Fractures	<input type="checkbox"/> Redness <input type="checkbox"/> Scratch Marks <input type="checkbox"/> Fingernail Impressions <input type="checkbox"/> Thumbprint Bruising <input type="checkbox"/> Fingerprint Marks <input type="checkbox"/> Bruises <input type="checkbox"/> Swelling <input type="checkbox"/> Ligature Marks	<input type="checkbox"/> Redness <input type="checkbox"/> Scratch Marks <input type="checkbox"/> Bruises <input type="checkbox"/> Abrasions	<input type="checkbox"/> Redness <input type="checkbox"/> Scratch Marks <input type="checkbox"/> Bruises <input type="checkbox"/> Abrasions	<input type="checkbox"/> Redness <input type="checkbox"/> Scratch Marks <input type="checkbox"/> Bruises <input type="checkbox"/> Abrasions

over

15. What did the victim think was going to happen? Fear of death? _____
16. What did the suspect say while strangling victim? _____
17. What was the suspect's facial expression and demeanor during strangulation? _____
18. Why and how did the strangulation stop? _____
19. What did the victim do, if anything, to protect self? _____

#6

#6

LETHALITY/HIGH RISK REFERRAL FORM

Date : _____

Name of referring person: _____

Referring agency: _____

Phone: _____ FAX: _____

Best way/time to reach you:

NAME OF OFFENDER & DOB (if known):

Comments:

Please send to:

Cassie Carter

High Risk Team Coordinator

Northwestern District Attorney's Office

Fax #: 413-773-3278

Email: cassie.carter@massmail.state.ma.us

Address: 13 Conway St. Greenfield, MA 01301

Phone #: 413-512-5903 (direct) / 413-774-3186 (main)

YOU CAN STOP THE VIOLENCE IN YOUR LIFE

You have been served with a restraining order because the plaintiff has been abused, threatened or frightened by you in some way.

You may have hit, slapped, pushed or restrained the plaintiff. You may have thrown objects, punched walls, kicked chairs or destroyed property. You may have been verbally or sexually threatening or abusive.

Battering is very common in our society and occurs in all economic, ethnic and racial groups.

Many people find it hard to accept and admit that they have a problem. They often blame the victim for "provoking" them. Sometimes, people who are substance abusers try to blame the alcohol or drugs for their abusive behavior. Some people have learned to express their anger through violence.

Battering is a learned behavior that can be unlearned. The first step is to stop blaming others for your abusive behavior and to recognize you have a problem.

GETTING HELP

Don't wait until your situation gets worse. The problem will not go away by itself. Contact one of the following agencies for help:

Batterer's Intervention:

Moving Forward Program at ServiceNet

Serves Hampshire & Franklin Counties and Athol
413-587-9050 or 888-636-9050 (toll free)
www.servicenet.org/content/moving-forward

Proteus Batterer's Intervention Program

The Carson Center at Valley Human Services
96 South Street, Ware; 413-579-7569

Mental Health and Substance Abuse Services:

ServiceNet

400 Amity Street, Amherst
50 Pleasant Street, Northampton
55 Federal Street, Greenfield
877-984-6855 (toll free)
www.servicenet.org

Clinical and Support Options

491 Main Street, Athol; 978-249-9490
1 Arch Place, Greenfield; 413-774-1000
8 Atwood Drive, Northampton; 413-582-0471
www.csoinc.org

Center for Human Development

357 Main Street, Athol
179 Northampton Street, Easthampton
489 Bernardston Road, Greenfield
131 West Main Street, Orange
844-CHD-Help (243-4357)
www.chd.org

Alcoholics Anonymous, Western Mass.

413-532-2111
www.westernmassaa.org

Narcotics Anonymous, New England Region

866-624-3578
www.nerna.org

Financial Counseling and Support:

Community Action

393 Main Street, Greenfield; 413-475-1570
17 New South Street, Northampton; 413-582-4237
167 South Main Street, Orange; 978-544-8091
6 South Street, Ware; 413-967-4920
www.communityaction.us

This project is supported by a Violence Against Women Act S.T.O.P. grant awarded by the Violence Against Women Grants Office, Office of Justice Programs, U.S. Department of Justice to the Massachusetts Executive Office of Public Safety Programs Division and subgranted to the Northwestern District Attorney's Office. Points of view in this document are those of the author(s) and do not necessarily represent the official position or policies of the U.S. Department of Justice.

For the 209A Defendant:

Understanding the Abuse Prevention Order and Getting Help

You have just been served with an abuse prevention order, also known as a restraining order, issued pursuant to chapter 209A of the Massachusetts General Laws. It is important to read the restraining order in full as well as this brochure to ensure you are aware of your responsibilities.

If you violate the no abuse, no contact, stay away, vacate, or surrender guns provisions of this order, you will be arrested. A

violation of these terms of the order is punishable by a jail sentence up to two and one half (2 ½) years, a fine up to \$5000, or both. A violation of any other terms of the order may also be punished by imposition of a substantial fine and/or a jail sentence.

You can stop the violence in your life.

This brochure contains resources where you can get help.



Northwestern District Attorney David E. Sullivan's
Task Force on Domestic and Sexual Violence

Updated August 2014

UNDERSTANDING THIS ORDER

The Court has ordered you to do and not do certain things which are listed in the Order. You are required to obey ALL of the items that have been checked.

NO ABUSE:

If you have been ordered not to abuse the plaintiff, you are prohibited not only from physically harming the plaintiff, but also from: (a) threatening the plaintiff; (b) attempting to harm the plaintiff; (c) placing the plaintiff in fear of physical harm; and (d) using force or a threat of any kind to make the plaintiff have sex unwillingly with you.

IMPORTANT – If the plaintiff is frightened by your words or actions, even if you do not believe you are being abusive, it may still be considered abuse by the Court.

NO CONTACT:

If you have been ordered not to contact the plaintiff, this means that you cannot contact the plaintiff IN ANY WAY, directly or indirectly, including:

- Calling the plaintiff on the phone
- Sending a text message to the plaintiff
- Contacting the plaintiff through social media such as Facebook, Twitter, or Instagram
- Sending an email to the plaintiff
- Leaving messages on an answering machine
- Sending letters to the plaintiff
- Sending flowers, candy, or gifts to the plaintiff
- Sending messages to the plaintiff through friends, relatives, children, or anyone else

IMPORTANT – You cannot have contact with the plaintiff even if the plaintiff wants to have contact or initiates the contact. If you respond to contact initiated by the plaintiff, you will still be charged for violating the Order.

STAY AWAY:

If you have been ordered to remain a certain distance away from the plaintiff, you must NEVER be closer to the plaintiff than that distance. This includes public streets, shopping malls, movie theaters, grocery stores, schools, public transportation, or any other place.

IMPORTANT – Even if you are already at a place and the plaintiff comes in after you, you must leave or move away from the plaintiff at least the distance that has been ordered.

VACATE RESIDENCE:

If you have been ordered to immediately leave the plaintiff's residence, even if it was also your own residence, you must not return to the residence for any reason. The only exception is if the Court has specifically authorized on the Order for you to be able to return to the residence to retrieve your belongings, which MUST be done in the presence of the police.

IMPORTANT – Even if the deed/lease and utilities are solely in your name, you cannot damage the property in any way or shut off the utilities or mail delivery. You are also required to give your keys to the police.

SURRENDER GUNS:

If you have been ordered to surrender to the police any guns, ammunition, and gun licenses and FID cards, you must do so IMMEDIATELY to the officer serving the Order unless directed otherwise. This order not only includes guns that you own, but also guns or ammunition that you possess or have control over.

OTHER ORDERS:

The Court may have set other terms of the Order including, but not limited to: (1) ordering you to stay away from the plaintiff's work or school; (2) awarding custody of children to the plaintiff and ordering you to not contact the children; (3) ordering you to pay support or compensation to the plaintiff; and (4) ordering the custody of a pet to the plaintiff. You are required to abide by these terms the same as all others.

WHAT HAPPENS NEXT?

How long does the Order last?

The Order tells you what date and time it will expire (end). The Order will end on that date at 4:00 p.m., unless extended by the Court.

Can the Order be extended?

The Order will have a "hearing date" written on it. The "hearing" is for the judge to decide whether this order should be extended, modified, or dismissed.

On the date that the Order expires, the plaintiff may appear to request an extension. The extension can be for a specific period of time or the judge may make the Order permanent. If the Court decides after a hearing that the Order should be extended, it will remain in full force and effect until the date stated.

Do I have to go to Court?

You have a right to appear at the hearing, with or without an attorney, to question the plaintiff, and to present your side to the judge.

Whether you appear or not, the Court may extend the Order!

WHO CAN DISMISS THE ORDER?

Only the Court that issued the order can change or dismiss it. Therefore, you cannot move back into the plaintiff's home or contact the plaintiff even if you are invited, unless the Order has been modified or dismissed by a Court. Even if the plaintiff initiates contact with you or asks you to move back in, if the Order is still in effect and you violate the terms, you will be arrested and charged. Although a plaintiff can ask the Court to modify, dismiss, or vacate the Order, the decision whether to do so belongs to the judge.

REMEMBER – Even if the Court changes or dismisses the Order, you cannot *abuse* the plaintiff!